

# Geophonic Networks, Inc.

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BY FEDERAL EXPRESS # 8360 4753 0681  
& FIRST CLASS MAIL – CERTIFIED # 7005 3110 0001 6892 4669

The Illinois Commerce Commission  
c/o Hon. Charles E. Box  
Chairman  
527 East Capitol Avenue  
Springfield, IL 62701

Re: Notice of Provisional Patent Rights in regard to the Proposal by certain  
Illinois Electric Utilities to Implement a Competitive Bid Procurement  
Process – ICC Docket Nos. 05-0159, 05-0160, 05-0161 and 05-0162

Dear Chairman Box:

Commonwealth Edison Company (“ComEd”) as well as Central Illinois Light Company d/b/a AmerenCILCO, Central Illinois Public Service Company d/b/a AmerenCIPS and Illinois Power d/b/a AmerenIP (together, the “Ameren Companies”) plan to hold an auction in September 2006 in order to implement a competitive bid process (“CBP”) approved by the Illinois Commerce Commission (the “Commission”). This CBP auction process, as described in the Commission’s order dated January 24, 2006 and in presentations to the public in June 2006 by ComEd and the Ameren Companies, appears to be designed to enable ComEd and the Ameren Companies to procure sufficient electric power to meet the needs of most or all of their respective customers starting January 1, 2007.

Geophonic Networks, Inc. (“Geophonic”) holds U.S. Patent No. 6,047,274 and U.S. Patent No. 6,598,029 [copies are attached for your reference]. We believe these patents may apply to energy auctions such as the CBP auction process that ComEd and the Ameren Companies plan to hold in September 2006.

In addition, Geophonic has two related patent applications pending at the United States Patent and Trademark Office (“USPTO”) that we believe may also apply to the CBP auction ComEd and the Ameren Companies plan to hold in September 2006. On January 22, 2004, the USPTO published (i) U.S. Patent Application Serial No. 10/062,798, as amended (the “‘798 Application”), as Publication No. US 2004/0015428 A2 and (ii) U.S. Patent Application Serial No. 10/633,937 (the “‘937 Application”) as Publication No. US 2004/0015433 A1. [For your reference and convenience, we have attached copies of these published applications.]

**This letter shall serve as notice to the Commission of the publication on January 22, 2004 of both the '798 Application and the '937 Application.** Under 35 U.S.C. §154(d) [copy attached], the publication of each Application provides Geophonic with the provisional right to a reasonable royalty from any person who had actual notice of such published Application and, thereafter, who makes, uses, offers for sale or sells in the United States the invention as claimed in such published Application. This provisional right to a reasonable royalty accrues immediately (from and after the date of such notice). Geophonic's right to receive a reasonable royalty under 35 U.S.C. §154(d) assumes that the invention as claimed in the patent (when issued) resulting from such Application is substantially identical to the invention as claimed in the published Application.

If the CBP auction proposal approved by the Commission goes forward as planned in September 2006, we believe that the Commission, ComEd, the Ameren Companies and certain of the other participants in the CBP process may infringe our inventions as claimed in the above-referenced patents and published applications. Geophonic is willing to provide a license, at a reasonable royalty rate, to the Commission and/or ComEd and/or the Ameren Companies (or their respective affiliates) for the use of Geophonic's patented energy auction process in Commission-approved CBP auctions.

Please be advised that Geophonic has no intention of taking any action that would prevent or delay the planned September 2006 CBP auction process from proceeding as scheduled. This letter is intended only to provide notice to the Commission that both our '798 Application and '937 Application have been published and are pending at the USPTO - in order to preserve our provisional royalty rights with respect to those pending patent applications as they may apply to the planned CBP auction process.

We are enclosing in our FedEx package four additional copies of this letter (with all attachments) for internal distribution to your fellow Commissioners. We look forward to discussing this matter further with the Commission or its representatives at your convenience.

Very truly yours,



Jack J. Johnson  
President

Attachments (5)

cc:

Tim Anderson - ICC Executive Director  
Mary Stephenson - ICC General Counsel  
Frank M. Clark - Chairman & CEO of ComEd  
Gary L. Rainwater - Chairman & CEO of AmerenCILCO,  
AmerenCIPS and AmerenIP

**35 U.S.C. 154 Contents and term of patent; provisional rights.**

**(d) PROVISIONAL RIGHTS.—**

**(1) IN GENERAL.—** In addition to other rights provided by this section, a patent shall include the right to obtain a reasonable royalty from any person who, during the period beginning on the date of publication of the application for such patent under section 122(b), or in the case of an international application filed under the treaty defined in section 351(a) designating the United States under Article 21(2)(a) of such treaty, the date of publication of the application, and ending on the date the patent is issued—

**(A)** (i) makes, uses, offers for sale, or sells in the United States the invention as claimed in the published patent application or imports such an invention into the United States; or

(ii) if the invention as claimed in the published patent application is a process, uses, offers for sale, or sells in the United States or imports into the United States products made by that process as claimed in the published patent application; and

**(B)** had actual notice of the published patent application and, in a case in which the right arising under this paragraph is based upon an international application designating the United States that is published in a language other than English, had a translation of the international application into the English language.

**(2) RIGHT BASED ON SUBSTANTIALLY IDENTICAL INVENTIONS.—** The right under paragraph (1) to obtain a reasonable royalty shall not be available under this subsection unless the invention as claimed in the patent is substantially identical to the invention as claimed in the published patent application.

**(3) TIME LIMITATION ON OBTAINING A REASONABLE ROYALTY.—** The right under paragraph (1) to obtain a reasonable royalty shall be available only in an action brought not later than 6 years after the patent is issued. The right under paragraph (1) to obtain a reasonable royalty shall not be affected by the duration of the period described in paragraph (1).